IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 8111 OF 2005

Manoj Hanmant Farne ...Applicant.

V/s

The State of Maharashtra ...Respondent.

Mr. S.B. Shetye for the applicant.

Mr. Y.S. Shinde, APP for the State.

ALONG WITH]

CRIMINAL APPLICATION NO. 8112 OF 2005

Kapil Dattatraya Dhamdhere ...Applicant.

V/s

The State of Maharashtra ...Respondent.

Mr. S.B. Shetye for the applicant.

Mr. Y.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 9th January, 2006

P.C.

1. The applicants in both these applications were arrested in connection with the offence which was registered by the Sangli City Police Station on 6/7/2005 punishable under section 302, 201, 212 read with section 34 of the Indian Penal Code.

2. The prosecution case in brief is that on 5/7/2005, the Police Inspector Smt. V. J. Patil of the Sangli City Police Station received wireless message that a person was found lying in a pool of blood in front of the Maharashtra Pan Shop at Old Jakat Naka and, accordingly, the police went to the place and took the person who was lying there to the Civil Hospital, Sangli. He, however, succumbed to the injuries and died. Accordingly, on 6/7/2005 at about 5.30 a.m. she lodged the FIR in Sangli Police Station. During the course of investigation, the statements of the witnesses were recorded. Sanjay Shinde has stated that he had accompanied the deceased to the hotel and thereafter had left after the quarrel had started. Shri Vijay Koli, another eye witness has stated that he has seen the applicants assaulting the deceased with wooden stick. The charge-sheet has been filed in this case.

3. The prosecution case is that the deceased had gone to the Restaurant of the applicants where the applicant - Manoj Hanmant Farne was the Manager of the said Restaurant. It is alleged by the prosecution that the deceased was already in a drunken state and had consumed an alcohol and after going to the counter of the Restaurant, he demanded that alcohol should be

served to him. When the Manager demanded the money for alcohol, the deceased said that he would not pay that amount and, thereafter, there was an altercation. Sanjay Shinde had stated that he had accompanied the deceased to the hotel and, thereafter, had left after the quarrel had started whereas another eye witness Vijay Koli has stated that he had seen the incident while he was returning home and had seen the applicants assaulting the deceased. The statements of these two witnesses were recorded on 7/7/2005 and 9/7/2005 respectively. It is submitted that it is highly unlikely that these witnesses would remain quiet for a period of four days and, thereafter, would make the statement. He submitted that the injuries which are found on the person of the deceased are contused lacerated wounds. The learned Counsel invited my attention to the injuries from the post-mortem report which is annexed to the application.

4. The learned APP vehemently opposed the said submission. He submitted that the eye witness Vijay Koli in his statement has categorically stated that he had seen Manoj Farne assaulting the deceased with the stick on his head and he had also named the other applicant in his statement. He submitted that,

therefore, this is not a fit case for grant of bail.

5. In my view, considering the peculiar facts and circumstances of the case, the applicants are entitled to be released on bail. The statement of the eye witnesses has been recorded after a lapse of four days. The deceased was found lying on the street and the FIR was lodged by the Inspector Smt. Patil. The applicants are working in the Restaurant. The applicant Manoj Farne is the Manager and the other applicant is the waiter working in the hotel. It is the case of the prosecution witnesses that the deceased had entered the hotel late at night and was completely under the influence of alcohol and had created a scene in the hotel and had demanded an alcohol without paying for the same. The statements of the two alleged eye witnesses admittedly have been recorded after almost 48 hours from the date of the incident. The injuries on the person of the deceased are contused lacerated wounds. There is one injury on the head. In view of these facts, I am of the view that the applicants are entitled to be released on bail. The applicants are having their permanent residence in Sangli.

6. The applicants be released on bail in the sum of Rs 5000/- each with one or two sureties each in the like amount. The applicants shall report to the Local Crime Branch Police Station, Sangli once in a month.

7. Both the Criminal Applications are disposed of in the above terms.

V.M. KANADE, J.